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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,445	03/24/2004	Kevin L. Reynolds	24305.00	3359
7590	03/21/2005			
EXAMINER				MENDIRATTA, VISHU K
Richard C. Litman LITMAN LAW OFFICES, LTD. P.O. Box 15035 Arlington, VA 22215				ART UNIT PAPER NUMBER
				3711

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/807,445	REYNOLDS, KEVIN L.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vishu K Mendiratta	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 March 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/24/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In a utility claim either an apparatus or a method must be claimed. It is not clear what is being claimed. The preambles of claims 5-6 are not consistent with preamble of claim 1.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6-8 rejected under 35 U.S.C. 102(b) as being anticipated by Nolte (3610626).

Claim 1: Nolte teaches a game board (Fig.1) having a total of 24x24 light and dark spaces, the inner 18x18 spaces making the central playing area and rest of spaces (outer spaces) making a total of eight extensions. Nolte clearly indicates at selected portions of the board being utilized for playing a game (2:1-3). Applicant may note that the claimed limitations “spaced apart” is being broadly and reasonably interpreted as any kind of area, regardless whether that area has additional squares or not. Further in

a “comprising claim” it is appropriate if the cited board game has other limitation in addition to recited in applicant’s claim. Nolte further teaches a plurality of game pieces (Fig.2) that can be used in eight sets. It may be noted that a set is a broad limitation and can each have one or more pieces.

Claims 6-8: Claim limitations are rules for playing a game and do not further limit the apparatus in the claim 1.

Claims 7-8: Claim limitations are narrative and Nolte playing pieces can be used for playing any games (intended use of apparatus).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Nolte. Nolte teaches all limitations except that it does not clearly teach eight sets of differently colored playing pieces.

Nolte does however indicate at variation in game for more number of players. In order to avoid mixing and to identify the game pieces/spaces belonging to a particular player, it would have been obvious to color them differently. One of ordinary skill in art at the time the invention was made would have provided playing pieces and spaces differently colored for identification/belongingness.

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7. Claims 6-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Nolte in view of official notice of conventional chess playing method.

Claims 6-9,12-15,18-19: Applicant may note that method steps recited in all claims are generic steps commonly known in the art area of board games and specifically in playing chess games. Nolte teaches all limitations except that it does not clearly teach all generic steps such as determining an order of play, a pawn moving two spaces initially and diagonally to capture or getting promoted to a queen upon landing on opponent's starting space.

In order to make the game attractive, it would have been obvious to use chess playing method steps to promote the game.

One of ordinary skill in art at the time the invention was made would have suggested using commonly known chess method steps for promoting a board game.

Claims 10-11,16-17: Nolte does however indicate at variation in game for more number of players. In order to avoid mixing and to identify the game pieces/spaces belonging to a particular player, it would have been obvious to color them differently. One of ordinary skill in art at the time the invention was made would have provided playing pieces and spaces differently colored for identification/belongingness.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

VKm  
March 17, 2005